UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	CV 24-03951 PSG (RAOx)	Date	September 16, 2024
Title	Sandpiper CDN, LLC v. Google LLC		

Present: The Honorable	Philip S. Gutierrez, United States District Judge
Derek Davis	Not Reported
Deputy Clerk	Court Reporter
Attorneys Present for Plaintiff(s):	Attorneys Present for Defendant(s):
Not Present	Not Present

Proceedings (In Chambers): Order GRANTING Defendant's motion to dismiss Counts II and IV of the Complaint

On May 10, 2024, Plaintiff Sandpiper CDN, LLC ("Sandpiper") filed this action for patent infringement against Defendant Google LLC ("Google"). Dkt. # 1 ("*Compl.*"). Before the Court is Google's Motion to Dismiss Counts II and IV of the Complaint. *See generally* Dkt. # 23 ("*Mot.*"). Sandpiper timely filed an opposition to the motion, *see generally* Dkt. # 26 ("*Opp.*"), and Google replied, *see generally* Dkt. # 27 ("*Reply*"). After considering the papers and listening to the arguments made during a hearing held on September 13, 2024, the Court **GRANTS** Google's Motion.

I. Background

Sandpiper's Complaint alleges infringement of U.S. Patent Nos. 8,478,903; 8,595,778; 8,645,517; 8,719,886; 9,021,112; and 10,924,573. *Compl.* 1:20–23. Two of those patents are at issue in this motion: U.S. Patent No. 8,595,778 (the "'778 patent") and U.S. Patent No. 8,719,886 (the "'886 patent"). *See generally Mot.*

The '778 patent, entitled "User Authentication in a Content Delivery Network," was filed in 2008 "when the fledgling streaming media industry lacked well-developed content protection and monetization technologies." *Opp.* 3. Content Delivery Networks ("CDNs")[1] faced issues when trying to manage digital rights to media, like video streams, when users requested access. *See Compl.* ¶¶ 10, 37. Technology, at the time, "failed to provide infrastructure and logic for restricting content from unauthorized users" or for "providing content to authorized users based on the user's location or account status." *Id.* ¶ 37. Sandpiper explains that users who "were not

[1] CDNs are providers of services that enable content providers to quickly deliver online content to millions of customers simultaneously over the Internet. *Compl.* ¶¶ 10, 37.

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authorized to view certain video streams (due to location or account status)" could nonetheless "still request to view such video streams." *Opp.* 3.

Sandpiper's '778 patent describes various solutions. For example, the patent employs a solution of querying a subscription database and then either transmitting a notification to an end user telling the end user it is not authorized to view the video or delivering the video stream to the end user based on processing the subscription database's reply. *Opp.* 3. Another solution involves "responding to end-user requests for video streams over a network, which include querying a database and processing proximity parameters associated with the end user." *Compl.* ¶ 38. Another solution uses "a subscriber verification table." *Id.* Sandpiper claims that at the time, the "solutions recited in the claims of the '778 Patent . . . were not conventional." *Compl.* ¶ 38.

Sandpiper's '778 patent lists twenty claims. The first claim of '778 patent states:

> 1. A computer-implemented method for authorizing delivery of a video stream to an end user, wherein the video stream is associated with a content publisher, the method comprising:
> receiving a request from the end user for delivery of the video stream to the end user across a network;
> querying a subscription database associated with the content publisher;
> in response, processing a reply from the subscription database to determine whether the end user has authorization to receive delivery of the video stream; and
> performing at least one of;
> transmitting a notification to the end user indicating that the end user is not authorized to receive delivery of the video stream based on the processing of the reply from the subscription database; and
> initiating delivery of the video stream to the end user based on the processing of the reply from the subscription database, wherein the reply from the subscription database indicates the end user is authorized to receive delivery of the video stream.

Compl. Ex. B (*'778 Patent*) 41.

Other claims in the '778 patent provide variations on Claim 1. For instance, Claims 2, 3, and 13 add the use of metadata: "receiving metadata from the end user; processing the metadata to identify a content publisher associated with the end user." *See '778 Patent* 41. Claim 8 contemplates "terminating the delivery of the video stream to the end user" (in other words,

stopping the video). *See id.* Various claims, including Claims 4–7 and 17–18, mention limiting whether users can watch a video based on certain parameters such as the user's geographic location or a time restriction. *See id.* For instance, Claim 7 states that "subscription parameters" could include "at least one of a time restriction and a geographic restriction." *See id.* Claim 11 and Claim 12 specify that the system could include a second user watching the video. *Id.*

Sandpiper has another patent with a 2008 filing date: the '886 patent. *Compl.* ¶ 42. The '886 patent, entitled "Dynamic Processing of Streamed Content," deals with certain obstacles that arise when delivering content in a CDN. *Id.* ¶ 43. CDN providers needed ways to modify video stream, including when "playback is sought from more than one source." *Id.* The '886 patent provided then-unconventional methods of "processing video streams from content sources during delivery across a network." *Id.* ¶ 44. For example, the '886 patent recited the solution of "injecting selected content into a video stream based on proximity parameters . . . based on querying a server." *Id.* The geographic location of the client, for instance, could act as a proximity parameter. *Id.*

The '886 patent has 19 claims. Claim 1 reads as the following:

> 1. A computer-implemented method for delivery of video content across a network comprising:
> receiving a video stream from a content source for delivery to a client of a content publisher, wherein the client subscribes to the content publisher to receive video content;
> detecting a trigger signal within the video stream, wherein the trigger signal is indicative of a temporal mark injected into the video stream by the content publisher;
> processing the trigger signal to determine whether to modify delivery of the video stream to the client; and
> if necessary, modifying delivery of the video stream in accordance with the processing of the trigger signal,
> wherein processing the trigger signal comprises querying a data repository having information related to a content programming schedule associated with the content publisher.

Compl. Ex. D ("*'886 Patent*") 41.

Other claims in the '886 patent provide variations on Claim 1. For example, some claims, including Claims 3, 6, 10–12, 14, 16, and 19, discuss inserting an advertisement into the video

stream at a trigger point. *See '886 Patent* 41–42. Some claims, like Claim 2, describe that the "data repository" could "include[] an Electronic Programming Guide (EPG) configured to provide a schedule that identifies when various content provided by the content publisher will be available for reception by authorized clients." *Id.* Other claims, like Claim 8, discuss using "geographic location" or similar "proximity parameters" to modify the video stream or "discontinu[e] delivery of the video stream." *Id.* Some claims, like Claim 5, also mention that "synchronization information" (i.e., information "specifying temporal information") could be "extract[ed]" from the "trigger signal." *Id.*

II. Legal Standard

A. Rule 12(b)(6) Motion to Dismiss

Pursuant to Federal Rule of Civil Procedure 12(b)(6), a defendant may move to dismiss a cause of action if the plaintiff fails to state a claim upon which relief can be granted. In evaluating the sufficiency of a complaint under Rule 12(b)(6), courts must be mindful that the Federal Rules require only that the complaint contain "a short and plain statement of the claim showing that the pleader is entitled to relief." Fed. R. Civ. P. 8(a)(2). Although a complaint does not need detailed factual allegations to survive a 12(b)(6) motion to dismiss, "a plaintiff's obligation to provide the 'grounds' of his 'entitle[ment] to relief' requires more than labels and conclusions, and a formulaic recitation of the elements of a cause of action will not do." *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555, 127 S. Ct. 1955, 167 L. Ed. 2d 929 (2007) (internal citations omitted). Rather, the complaint must allege sufficient facts to raise a right to relief above the speculative level. *Id.* (citing 5 C. Wright & A. Miller, Federal Practice and Procedure § 1216, pp. 235-36 (3d ed. 2004)). However, detailed and "[s]pecific facts are not necessary; the statement need only give the defendant fair notice of what the . . . claim is and the grounds upon which it rests." *Erickson v. Pardus*, 551 U.S. 89, 94, 127 S. Ct. 2197, 167 L. Ed. 2d 1081 (2007) (citation and internal quotation marks omitted).

In deciding a 12(b)(6) motion, a court must accept all factual allegations in the complaint as true. *Leatherman v. Tarrant County Narcotics Intelligence and Coordination Unit*, 507 U.S. 163, 164 (1993). Courts must also construe all reasonable inferences in the light most favorable to the plaintiff. *Broam v. Bogan*, 320 F. 3d 1023, 1028 (9th Cir. 2003).

B. Title 35, Section 101 Patent Eligibility

Under § 101 of the Patent Act, "[w]hoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent." 35 U.S.C. § 101. One may not obtain a patent for "laws of nature, natural phenomena, [or] abstract ideas." *Alice Corp. Pty. Ltd. v. CLA Bank Int'l*, 573 U.S. 208, 217 (2014) (citations omitted).

The Supreme Court in *Alice* described a two-step test that district courts apply in a patent eligibility analysis under § 101. *Id.* At step one, a court must "determine whether the claims at issue are directed to one of those patent-ineligible concepts." *Id.* at 217 (citing *Mayo Collaborative Servs. v. Prometheus Labs, Inc.*, 566 U.S. 66, 77 (2012)). The courts "therefore look to whether the claims . . . focus on a specific means or method that improves the relevant technology or are instead directed to a result or effect that itself is the abstract idea and merely invoke generic processes and machinery." *McRO, Inc. v. Bandai Namco Games Am. Inc.*, 837 F.3d 1299, 1314 (Fed. Cir. 2016). "The 'directed to' inquiry . . . cannot simply ask whether the claims *involve* a patent-ineligible concept, because essentially every routinely patent-eligible claim . . . *involves* a law of nature and/or natural phenomenon." *Enfish LLC v. Microsoft Corp.*, 822 F.3d 1327, 1335 (Fed. Cir. 2016) (emphasis in original). Rather, district courts are to review claims "in light of the specification, based on whether 'their character as a whole is directed to excluded subject matter.'" *Id.* at 1335 (quoting *Internet Patents Corp. v. Active Network, Inc.*, 790 F.3d 1343, 1346 (Fed. Cir. 2015)).

If a claim is directed to a patent-ineligible concept, the court proceeds to step two and must ask: "What else is there in the claims . . . ?" *Alice*, 573 U.S. at 217 (citing *Mayo*, 566 U.S. at 76–77). To answer this question, courts must "consider the elements of each claim both individually and 'as an ordered combination' to determine whether the additional elements 'transform the nature of the claim' into a patent-eligible application." *Id.* (citing *Mayo*, 566 U.S. at 78–79). Step two is a "search for an 'inventive concept'—*i.e.*, an element or combination of elements that is 'sufficient to ensure that the patent in practice amounts to significantly more than a patent upon the [ineligible concept] itself.'" *Id.* at 217–18, 225 ("[T]he relevant question is whether the claims here do more than simply instruct the practitioner to implement the abstract idea of intermediated settlement on a generic computer."). This inquiry determines whether claims reciting an abstract idea "do significantly more than simply describe the abstract method" and instead "'transform' the claimed abstract idea into patent-eligible subject matter" with "additional features." *Ultramercial, Inc. v. Hulu, LLC*, 772 F.3d 709, 715 (Fed. Cir. 2014). "Those 'additional features' must be more than 'well-understood, routine, conventional activity.'" *Bascom Glob. Internet Servs., Inc. v. AT&T Mobility LLC*, 827 F.3d 1341, 1349 (Fed.

Cir. 2016) (citing *Alice*, 573 U.S. at 223). However, "[t]he inventive concept inquiry requires more than recognizing that each claim element, by itself, was known in the art . . . . [A]n inventive concept can be found in the non-conventional and non-generic arrangement of known, conventional pieces." *Id.* at 1350.

"Patent eligibility has in many cases been resolved on motions to dismiss or summary judgment." *Berkheimer v. HP Inc.*, 881 F.3d 1360, 1368 (Fed. Cir. 2018). "Patent eligibility can be determined at the Rule 12(b)(6) stage" but "only when there are no factual allegations that, taken as true, prevent resolving the eligibility question as a matter of law." *Aatrix Software, Inc. v. Green Shades Software, Inc.*, 882 F.3d 1121, 1125 (Fed. Cir. 2018).

III. Discussion

A. The '778 Patent

i. Alice *Step One*

Google asserts that Sandpiper's '778 patent "is directed to the abstract idea of using a subscription database to determine whether a user is authorized to receive content." *Mot.* 6. Google points to case law holding that authenticating someone's access to resources is an abstract idea. *Id.* 6–7. Sandpiper responds that its '778 patent goes "far beyond the abstract idea of 'authorization' generally." *Opp.* 6.

In applying the first step of *Alice*, courts should "identify the purpose of the claim—in other words, what the claimed invention is trying to achieve—and ask whether that purpose is abstract." *Cal. Inst. of Tech. v. Hughes Comms. Inc.*, 59 F. Supp. 3d 974, 991; *see Tech. In Ariscale, LLC v. Razer USA, LTD.*, 703 F. Supp. 3d 1154, 1160 (C.D. Cal. 2023) ("The first stage of the *Alice* inquiry looks at the focus of the claims [and] their character as a whole." (quoting *SAP Am., Inc. v. InvestPic, LLC*, 898 F.3d 1161, 1167 (Fed. Cir. 2018)).

Claim 1 of the '778 patent can be broken down as follows: (1) "receiving a request" for video content from a user, (2) "querying a subscription database" that is associated with the publisher of the video content, (3) "processing" the reply from the subscription database and thereby analyzing whether the user has authorization to watch the video, (4) informing the user that they do not have authorization to watch the video or, if the user does have authorization, sending the video to the user. *See '778 Patent* 41. Thus, the "purpose" of the '778 patent is

determining whether someone has authorization to view a video by consulting a subscription database.

As courts have already determined, "providing restricted access to resources" is an abstract idea. *See Prism Techs. LLC v. T-Mobile USA, Inc.*, 696 F. App'x 1014, 1017 (Fed. Cir. 2017). In *Prism*, the Federal Circuit determined that the following process was abstract: "(1) receiving identity data from a device with a request for access to resources; (2) confirming the authenticity of the identity data associated with that device; (3) determining whether the device identified is authorized to access the resources requested; and (4) if authorized, permitting access to the requested resources." *Id.* at 1017. As Google points out, this rejected patent in *Prism* bears a striking resemblance to Sandpiper's '778 patent. *Mot.* 7. Although the patents are not worded identically, the purpose of both patents is determining whether someone has authorization to access a resource.

Sandpiper attempts to distinguish *Prism*, which involved a post-trial motion for judgment as a matter of law, on its procedural posture. *Opp.* 9. This argument is not persuasive. Courts have used *Prism*'s analysis in deciding motions to dismiss—most notably in *KOM Software*, the case Sandpiper relies on in its opposition and calls "apt." *See Opp.* 10; 697 F. Supp. 3d 203 (D. Del. 2023) (using *Prism* as part of its analysis of the motion to dismiss and noting that *Prism* "unsurprisingly concluded that the asserted claims were directed to the abstract idea of 'control[ling] access to protected computer resources by authenticating identity data'"); *see also, e.g.*, *StrikeForce Techs., Inc. v. SecureAuth Corp.*, No. LA CV17-04314 JAK (SKx), 2017 WL 8808122, at *5–7 (C.D. Cal. Dec. 1, 2017) (relying heavily on *Prism* to grant a motion to dismiss as the patents at issue merely performed the abstract function of restricting access).

Sandpiper also tries to contrast *Prism* by noting that the '778 patent goes beyond just restricting access because it describes initiating delivery of a video "based on specific processing with a database using various parameters (e.g., proximity parameters, blackout rules, time restrictions)." *Opp.* 7. Yet, whether access to resources is based on the time of day, blackout rules, or some other parameter, the patent still merely describes the abstract process of determining whether or not to allow someone to access a resource. *See Intellectual Ventures I LLC v. Capital One Bank (USA)*, 792 F.3d 1363, 1369–70 (Fed. Cir. 2015) (explaining that "tailoring content based on the viewer's location or address" or tailoring content "based on the time of day of viewing" are both abstract concepts that are overly broad and "fundamental practice[s] long prevalent in our system").

Sandpiper also focuses on the fact that the '778 patent mentions the use of a "subscription database" to determine if a user has authorization to watch a video stream. *Opp.* 7. Sandpiper

states: "Far from merely reciting the generic concept of authentication, the claims provide specific, novel ways to authorize certain video streams for viewing by certain users, including using a subscription database to deliver video content to authorized users and restrict video content to unauthorized users." *Opp.* 7. But the mere compilation and analysis of a "subscription database" cannot rescue Sandpiper's patent from being abstract. *See Voip-PAL.COM, Inc. v. Apple Inc.*, 375 F. Supp. 3d 1110, 1125 (N.D. Cal. 2019) (deciding claims are generally "abstract where they are directed to some combination of acquiring information, analyzing information, and/or displaying the results of that analysis") (citing *FairWarning IP, LLC v. Iatric Sys., Inc.*, 839 F.3d 1089, 1094–95 (Fed. Cir. 2016)); *Alice*, 573 U.S. at 225 (labeling "recordkeeping" as "one of the most basic functions of a computer"); *Prism*, 696 F. App'x at 1016–18 (determining that a patent involving a client's "identity data" being stored in an "authentication server" was abstract).

Sandpiper also suggests that the '778 patent resembles a patent in *KOM Software*, a Delaware district court case. *KOM Software* dealt with two patents. *See generally KOM Software*, 697 F. Supp. 3d 203. The Court determined that the first patent was "not directed to an abstract idea," but rather provided a "specific improvement in computer capabilities or network functionality, namely, the use of a trap layer to intercept file access requests before they are transmitted to a storage medium." *Id.* at 216 (quotation marks omitted). The second patent, on the other hand, "present[ed] a quite different picture." *Id.* After taking out its "technical jargon," the Delaware court summarized the second patent as: "(1) providing an indication that one or more file operations is not permitted on a particular storage medium; and (2) restricting access to each file based on that indication, while still allowing access to the free space on that storage medium." *Id.* The court observed that this second patent did not limit its claims "to the specific 'trap layer' disclosed in the specification" and thereby "simply describe[d] a desired result." *Id.*

Here, Sandpiper's '778 patent too describes a "desired result"—namely using a subscription database to determine whether an end user is authorized to view a video stream based on certain parameters. A subscription database is not a specific improvement in computer capabilities. And neither is the concept of having parameters determining whether someone is authorized to view a video stream.

In the "abstract idea inquiry," courts may also employ the "helpful tool" of considering "whether the claims have an analogy to the brick-and-mortar world, such that they cover a 'fundamental . . . practice long prevalent in our system.'" *Voip-PAL.COM*, 375 F. Supp. 3d at 1127 (quoting *Intellectual Ventures*, 100 F. Supp. 3d at 383. Certainly, the process of confirming whether someone possesses authorization to access information has direct analogies

in the "brick-and-mortar world." Google provides multiple examples, including a librarian checking a library's subscription database ("card index") in order to determine whether a library user is authorized to check out a book. *Mot.* 8. Sandpiper seems to indicate that the '778 patent transcends the brick-and-mortal world as it is "a specific improvement in computer capabilities or network functionality—namely using a subscriber database, processing said reply, and based on that processing, determining whether an end-user is authorized to view a video stream." *Opp.* 11. Yet, using a subscriber database is exactly what a librarian does in Google's example. Before providing access to a book, a librarian checks the library's subscriber database to determine whether the individual in front of them truly is a subscriber to the library.

After reviewing each claim in the '778 patent, the Court finds that Claims 2–20 provide mere tweaks on the abstract idea in Claim 1 and do not meaningfully change the analysis.[2] For instance, Claim 2 mentions "receiving metadata from the end user" as a means of determining whether someone has access to a video. *'778 Patent* 41. Claim 3 similarly notes that the metadata could be "at least one of a token and a cookie." *'778 Patent* 41. Yet, the use of metadata in the world of streaming is simply not enough to lift a patent above being an abstract idea. *See Helios Streaming, LLC v. Warner Bros. Discovery, Inc.*, No. 8:23-cv-01575 MCS (MAA), 2024 WL 1824996, at *7 (C.D. Cal. Jan. 30, 2024) ("[Defendant] has met its burden at step one to show that the claimed method is directed to the abstract idea of streaming (i.e., continuous receipt and transmission of data) based on metadata."). Claim 9 suggests a "subscriber verification table" could be used to store the indication of whether or not the subscriber is authorized to receive the video. *'778 Patent* 41. But, like a "subscription database," the use of a table to verify whether a subscriber has authorization to view a video cannot rise above the abstract.

[2] Although the Court has reviewed each claim independently, the Court notes that because all claims in the '778 patent provide only minimal variations on the same idea of authenticating user access to resources, Claim 1 could be treated as representative. *See Berkheimer*, 881 F.3d at 1365 ("Courts may treat a claim as representative in certain situations, such as if the patentee does not present any meaningful argument for the distinctive significance of any claim limitations not found in the representative claim or if the parties agree to treat a claim as representative."); *Content Extraction & Transmission LLC v. Wells Fargo Bank, Nat. Ass'n*, 776 F.3d 1343, 1348 (Fed. Cir. 2014) ("The district court . . . correctly determined that addressing each claim of the asserted patents was unnecessary . . . . because all the claims are 'substantially similar and linked to the same abstract idea.'").

Because the Court finds that the claims in the ’778 patent are all directed to the abstract idea of authenticating user access to resources using a subscription database, it proceeds to *Alice* step two.

ii. Alice *Step Two*

Google asserts that Sandpiper fails to establish an “inventive concept” necessary to satisfy step two of the *Alice* inquiry. *Mot.* 9. Google argues that the ’778 patent “calls for only generic hardware and conventional computing steps.” *Id.* Sandpiper responds that ’778 patent offers “specification” and “multiple technical advances,” noting “[o]ne example of technical benefits offered by the ’778 patent” is its use of “a subscription database associated with the content publisher.” *Opp.* 12.

However, the Court does not see “technical benefits” or anything beyond “conventional computing steps” in the ’778 patent. Rather, the ’778 patent recites language that can only be described as broad, generic computing steps: “computer,” “receiving a request,” “querying a subscription database associated with the content publisher,” “processing a reply,” “transmitting a notification,” “initiating delivery of the video stream,” “receiving metadata,” “discontinuing delivery of the video stream,” and “determining whether the video stream should be blacked out.” *See’778 Patent* 41; *Alice*, 573 U.S. at 225 (“[T]he relevant question is whether the claims here do more than simply instruct the practitioner to implement the abstract idea of intermediated settlement on a generic computer.”).

Whether the authentication process is based on a subscription database (Claim 1), a subscriber verification table (Claim 9), the metadata of the end user (Claim 3),[3] the location of the end user (Claim 7), a time restriction (Claim 7), the end user’s identity data, the end user’s voiceprint, the end user’s fingerprint information, the end user’s social security number, or the end user’s DNA, the claims recite “well-known and conventional ways to perform authentication.” *See Universal Secure Registry LLC v. Apple Inc.*, 10 F.4th 1342, 1355 (Fed. Cir. 2021) (“We agree with the district court’s conclusion that the claims do not recite an

[3] The Court notes that metadata is even “broader and nonspecific” than some of the authentication methods rejected in *Universal Secure*. After all, metadata could include data such as an individual’s social security number. *See Universal Secure*, 10 F.4th at 1355 (“The claims are likewise broad and nonspecific. Indeed, the claimed second authentication information could be anything from social security number to a digital signature . . . . Thus, the claims do not recite a new authentication technique, but rather combine nonspecific, conventional authentication techniques in a non-inventive way.”).

inventive concept. Rather, the asserted claims recite well-known and conventional ways to perform authentication . . . . For example, the '826 patent explains that 'the biometric information can be fingerprint information, a voiceprint, DNA codes of the first user, or any other biometric information known . . . .' The claims are likewise broad and nonspecific."); *Prism*, 696 F. App'x at 1017–18 (deciding that analyzing a user's "identity data" in order to determine whether or not the user is authorized to access resources "does not rise to the level of an inventive concept").

Sandpiper argues that its patent should pass step two due to its novelty: "[T]he inventors discovered that using a subscription database managed by content providers would provide numerous technical benefits . . . . The USPTO reviewed such technical benefits and found the '778 patent was novel and non-obvious." *Opp.* 12. The plaintiff in *Prism* also tried "[s]hifting" the court's "focus away" from the patent's "generic computer components" and arguing its authentication system was "novel" due to the use of "identity data." *Prism*, 696 F. App'x at 1018. Nonetheless, the court in *Prism* determined that "[v]iewed as an ordered combination," the patent still "recite[d] no more than the sort of 'perfectly conventional' generic computer components employed in a customary manner." *Id.* Just as in *Prism*, Sandpiper's use of a "subscription database," in conjunction with other "generic computer components," still recites nothing more than "perfectly conventional' generic computer components employed in a customary manner." *See id.* In fact, the *Prism* court specifically referred to an "authentication server" and a "database" as "indisputably generic computer components." *See id.* at 1017.

Plus, novelty alone does not save an idea from being abstract. *See Affinity Labs of Tex., LLC v. DIRECTTV Digital LLC*, 838 F.3d 1253, 1263 n. 3 (Fed. Cir. 2016) ("[Plaintiff] asserts that the use of a downloadable application for presenting a graphical user interface on a cellular telephone capable of listing contents for streaming was novel as of the priority date of the patent. Even assuming that is true, it does not avoid the problem of abstractness."); *Netflix, Inc. v. Rovi Corp.*, 114 F. Supp. 3d 927, 948, 951 (N.D. Cal. 2015) ("A novel abstract idea is still an abstract idea . . . . the second step of the Alice/Mayo test requires more than a novel idea . . . ."); *Vilox Techs., LLC v. Salesforce, Inc.*, No. 23-cv-05047-AMO, 2024 WL 2807924, at *2 (N.D. Cal. May 31, 2024) ("[Plaintiff]'s assertion that 'there is no record evidence of the claimed solutions existing prior' to the patents at issue is likewise insufficient.").

Since the '778 patent fails *Alice* step two as well, the Court concludes that it recites patent-ineligible subject matter under § 101.

B. The ’886 Patent

i. Alice *Step One*

Google argues that the ’886 patent is directed to the abstract idea of modifying delivery of a video stream using trigger signals. *Mot.* 12. Google further claims that the patent merely recites “result-based functional language” and that similar patents have been held invalid under § 101. *Id.* 13–14. Sandpiper argues that the claims in the ’886 patent are directed to a “specific technological solution” to the “technological problem” of CDN providers seeking “solutions for modifying video stream, including where playback is sought from more than one source.” *Opp.* 16. Sandpiper argues that the patent exceeds results-based language and offers specific techniques for achieving the desired results. *Id.* 17.

The Court first identifies the “purpose” of the ’886 patent. *See Cal. Inst. of Tech.*, 59 F. Supp. 3d at 991 (“[I]dentify the purpose of the claim—in other words, what the claimed invention is trying to achieve—and ask whether that purpose is abstract.”). Looking first at Claim 1, the ’886 patent describes a “computer-implemented method for delivery of video content across a network” by: (1) “receiving a video stream” meant “for delivery to a client of a content publisher,” (2) “detecting a trigger signal within the video stream” where the “trigger signal is indicative of a temporal mark injected into the video stream by the content publisher,” (3) “processing the trigger signal to determine whether to modify delivery of the video stream to the client” (where processing the trigger signal means “querying a data repository having information related to a content programming schedule”), and (4) “if necessary, modifying delivery of the video stream in accordance with the processing of the trigger signal.” *See ’886 Patent* 41. In other words, the purpose of the patent is modifying delivery of a video based on trigger signals in that video.

At step one, courts find it “useful to determine the breadth of the claims in order to determine whether the claims extend to cover a ‘fundamental . . . practice long prevalent in our system.’” *Intellectual Ventures*, 792 F.3d at 1369. As the patent itself points out, the idea of having trigger points in entertainment content, which bring the viewer to a commercial or some other cut-out, is an age-old idea: “As it is commonly known a live broadcast of a sporting event does not provide a continuous content stream from a single static acquisition source such as the camera system. In other words, a live broadcast typically includes commercials, cut-outs to other broadcast feeds, and the like.” *See ’886 Patent* 32.

Sandpiper argues that the ’886 patent goes beyond the abstract concept of modifying a video with trigger signals by “instead recit[ing] techniques for achieving the claimed results.”

Opp. 17. Sandpiper emphasizes certain language in Claim 1: "***processing the trigger signal comprises*** querying a data repository having information related to a content programming schedule associated with the content publisher." *Id.* 17 (emphasis in original). Sandpiper says that this language "explicitly teaches how the trigger signal should be processed." *Id.* But that language simply describes that processing the trigger signal means requesting information from a repository that has information about the content programming schedule. "Querying" a "data repository" that has certain information in it is certainly a conventional computer process. *See Voip-PAL.COM*, 375 F. Supp. at 1125 ("[T]he U.S. Supreme Court has recognized that information itself is intangible . . . . Accordingly, the Federal Circuit has generally found claims abstract where they are directed to some combination of acquiring information, analyzing information, and/or displaying the results of that analysis.") (citing *FairWarning*, 839 F.3d at 1094–95).

Sandpiper also argues that its patent provides technological solutions to technological problems. Sandpiper gives the example of Claim 3, which "recites an unconventional method for modifying delivery of a video stream in accordance with a processing of the trigger signal" by "'receiving a response from the data repository that includes synchronization information for modifying, if necessary, the delivering of the video stream' where 'the synchronization information further including at least one of geo-filtering information and advertisement information.'" *Opp.* 16. Sandpiper also provides the example of "Claim 7," which describes "processing a trigger signal by 'applying proximity parameters associated with the client to the trigger signal in order to determine whether to modify the delivery of the video stream to the client." *Id.* However, receiving information about certain "proximity parameters" (like geographic location of the client) and then modifying the video based on that information is also abstract and a practice long prevalent in our system. *See Intellectual Ventures*, 792 F.3d at 1370 ("There is no dispute that newspaper inserts had often been tailored based on information known about the customer—for example, a newspaper might advertise based on the customer's location. Providing this minimal tailoring—e.g., providing different newspaper inserts based upon the location of the individual—is an abstract idea.").

Because the Court finds that the claims in the '886 patent are directed to the abstract idea of modifying a video using trigger signals within the video, the Court proceeds to *Alice* step two.

ii. Alice *Step Two*

Google argues that the ’886 patent lacks an inventive concept and thus fails step two. *Mot.* 16. Google proposes that the claims merely recite “conventional computing steps performed on generic hardware.” *Id.* Sandpiper, in response, claims that its patent does demonstrate an “inventive concept.” *See Opp.* 19–21. Specifically, Sandpiper contends that the ’886 patent introduces “technical advances.” *See id.* 20. Sandpiper argues:

> [T]he specification and claims of the ’886 patent assert multiple technical advances that evidence the claims’ inventive concepts. For example, Claim 1 teaches modifying a video stream in accordance with processing of a “trigger signal . . . indicative of a temporal mark injected into the video stream ***by the content publisher.***” Thus, claim 1 provides the technical benefit of enabling content publishers to maintain control over their content.

See Opp. 20 (emphasis in Opposition).

But, simply having a different person—the content publisher—insert a temporal mark in a video stream is not a technical advancement. *See Alice*, 573 U.S. at 225–26 (clarifying that “simply recit[ing]” a concept “as performed by a generic computer” is not enough to “transform an abstract idea into a patent-eligible invention”).

Sandpiper also alleges that the “solutions” in the ’886 patent were “novel” and “not conventional” at the time of the invention. *See Opp.* 19. Specifically, Sandpiper claims that “the USPTO found the ’886 patent novel and non-obvious.” *Id.* Again, even assuming the patent’s idea was novel at the time, novelty alone cannot transform an abstract idea into one with an “inventive concept.” *See Affinity*, 838 F.3d at 1263 n. 3; *Netflix*, 114 F. Supp. 3d at 948, 951 (“A novel abstract idea is still an abstract idea.”); *Vilox*, 2024 WL 2807924, at *2.

Sandpiper further argues that the various claims in the ’886 patent provide “meaningful differences.” *Opp.* 21. Sandpiper points to differences in the claims, such as the use of “synchronization information” in one and “proximity parameters” in another. *Id.* After review of each claim in the ’886 patent, the Court finds all claims to be “substantially similar” to the abstract idea of modifying a video stream using trigger signals, and thus finds Claim 1 to be representative. *See Content Extraction*, 776 F.3d at 1348 (“The district court . . . correctly determined that addressing each claim of the asserted patents was unnecessary . . . . because all the claims are ‘substantially similar and linked to the same abstract idea.’”). Nonetheless, even after analyzing the slight differences in the claims, the Court finds that none provide an

"inventive concept." Whether the process includes having certain information (e.g., information about "synchronization") in the trigger signal or having "proximity parameters" that determine whether a client may view the video (like the geographic location of the client or what time it is), the process still reflects an abstract idea applied to a computer. *See Alice*, 573 U.S. at 221 (noting that a patent must do "more than simply stat[ing] the [abstract idea] while adding the words 'apply it'"); *Accelerated Memory Tech., LLC v. Hulu, LLC*, CV 19-8968 PSG (SKx), No. CV 19-8968 PSG (SKx), 2020 WL 1934979, at *6 (C.D. Cal. 2020) ("In other words, [plaintiff] offers the same bases for patent eligibility that it offered at *Alice* Step One to support patent eligibility at *Alice* Step Two . . . . The Court agrees with [Defendant] that the claim limitations, considered alone and as an ordered combination, fail to recite anything beyond the abstract idea other than routine, conventional, and well-understood components.").

Because the '886 patent does not provide an inventive concept sufficient to transform the abstract idea into a patent-eligible concept, the claims of the '886 patent are found invalid.

IV. Leave to Amend

Whether to grant leave to amend rests in the sound discretion of the trial court. *See Bonin v. Calderon*, 59 F.3d 815, 845 (9th Cir. 1995). Courts consider whether leave to amend would cause undue delay or prejudice to the opposing part, and whether granting leave to amend would be futile. *See Sisseton-Wahpeton Sioux Tribe v. United States*, 90 F.3d 351, 355 (9th Cir. 1996). Generally, dismissal without leave to amend is improper "unless it is clear that the complaint could not be saved by any amendment." *Jackson v. Carey*, 353 F.3d 750, 758 (9th Cir. 2003).

The Court has found the claims of the '778 patent and the '886 patent to be invalid as a matter of law under § 101. In its opposition, Sandpiper states that if the Court is inclined to grant the motion, it "should be afforded an opportunity to amend its Complaint." *Opp.* 22. The Court finds that permitting leave for Sandpiper to file an amended complaint would be futile given that the patents speak for themselves, and Sandpiper has not shown that it could add allegations to the Complaint that would be both consistent with the patent intrinsic record and support a position of patent eligibility under 35 U.S.C. § 101. Sandpiper's request for leave to amend is **DENIED**.

V. Conclusion

For the reasons stated, the Court **GRANTS** Defendant's motion **WITH PREJUDICE** as to Counts II and IV.

IT IS SO ORDERED.